

REMARKS/ARGUMENTS

2 Claims 1-2 and 5-9 remain in this application. Claims 3-4  
3 have been canceled. Claims 10-12 have been added.

4 In response to the Office Action of December 1, 2004,  
5 Applicant requests re-examination and reconsideration of this  
6 application for patent pursuant to 35 U.S.C. 132.

## 7      Objections to the Specification

8           The Examiner has objected to the specification in that the  
9       term, "annular skirt," used in claim 9 is not found. The term  
10      refers to reference numeral 35, referred to as a, "counter bore  
11      portion," at page 16, lines 4-10 of the specification. That  
12      terminology will be used for consistency.

13 Rejections under 35 USC 112

14 Claim 9 stands rejected as indefinite in the double recitation  
15 of a taper and the presence of an extraneous word. These  
16 formalities have been corrected as suggested by the Examiner.

17 Rejections under 35 USC 102(b)

18           Claims 1-7 stand rejected as anticipated by White et al.  
19       Independent claims 1 and 5 have been amended to emphasize that the  
20       subassembly including the intramedullary rod and the link are  
21       loosely connected but relatively movable with regard to each other.  
22       The White patent does not teach a structure having a subassembly  
23       with a link and an intramedullary rod loosely connected together

1       but independently movable until final assembly. Therefore, White  
2       does not teach all the claimed elements and cannot anticipate the  
3       claims.

4           Claims 5, 6 and 8 stand rejected as anticipated by Doubler et  
5       al. Doubler teaches a similar prosthesis with a split ring locking  
6       the intramedullary rod and the remainder of the prosthesis  
7       together. The instant amended claims recite a different connection  
8       through a tubular extension which is permanently attached to the  
9       intramedullary rod. This distinguishes over the split ring. The  
10      claims have also been amended, as suggested by the Examiner, to  
11      include independent movement between the link and the  
12      intramedullary rod.

13      Rejection under 35 USC 103(a)

14           Claim 9 stands rejected as obvious in view of Doubler et al  
15       and Fernandez et al. As stated above, the Doubler patent does not  
16       disclose a permanent, though adjustable, connection between a link  
17       and the intramedullary rod which make up a subassembly. Further,  
18       while the Fernandez device has a tapered outer surface of the  
19       proximal end of the intramedullary rod, there is no link with an  
20       external taper which is complementary to an interior taper of a  
21       bore in the tubular extension on the intramedullary rod.

22           Therefore, the combination of references would not teach one  
23       of ordinary skill in the art to modify the Doubler device to

1 produce the invention as now claimed.

## SUMMARY

3 In light of the foregoing remarks and amendment to the claims,  
4 it is respectfully submitted that the Examiner will now find the  
5 claims of the application allowable. Favorable reconsideration of  
6 the application is courteously requested.

Respectfully submitted,

C. Fred Rosenbaum  
Registration # 27110

Registration # 27110

Registration # 27110

McHale & Slavin, P.A.  
2855 PGA Boulevard  
Palm Beach Gardens, FL 33410  
(561) 625-6575 (Voice)  
(561) 625-6572 (Fax)